BUDGET COMMITTEE
Judd Gregg, Ranking Member
http://budget.senate.gov/republican
Contact: Betsy Holahan (202)224-6011

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Senator Judd Gregg's
Statement Submitted for the Congressional Record
on the Status of the Highway Program
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Last month, efforts by Senate Democratic leaders to add roughly $250 billion to the U.S. debt over the next 10 years by increasing Medicare payments to physicians were put off by arguments from other Democrats that the cost of the proposal should be offset so as not to burden future generations with more debt. A series of press releases, editorials, and op-eds declared the proposal to be fiscally irresponsible and the Democratic leadership foolish for trying to taking it up as a standalone bill. And yet, a Senate highway bill that would add roughly $150 billion to the U.S. debt over the next 10 years remains below the radar and far more likely to be approved.

The last highway bill (SAFETEA-LU) expired at the end of September 2009. But highway programs, like much of the rest of government, continue to operate by virtue of the continuing resolution (CR), now in place through December 18, 2009. Until the authorization committees can agree on how to underwrite the $500 billion over six years that they desire in highway spending, a CR or another legislative vehicle will carry a highway programs extension. Meanwhile, the Highway Trust Fund is already insolvent and cannot support baseline spending levels equal to the highway program levels in FY09, much less an authorization bill amounting to half a trillion dollars.

The House and Senate authorizing committees advertise they are simply arguing over the length (3 months vs. 6 months vs. 18 months) of a "clean" extension. A clean extension, however, already exists in law in the CR and can be perpetuated indefinitely. The authorizers really want to combine a highway extension bill with an increase in highway spending authority above the FY09 level for contract authority.

The various "clean" extension bills being advocated by the highway authorizers are anything but clean, and they are certainly not extensions. For example, the latest Senate version to be hotlined on October 26 is a massive highway <u>expansion</u> bill - it would increase spending authority by $20.8 billion over the CBO baseline in 2010 and in every year after that.

$20.8 billion per year over the baseline is a lot of money. Why so much? Because authorizers set (back in 2005) the overall 5-year net level of highway spending in the last authorization bill (SAFETEA-LU) by rescinding $8.7 billion on the day that bill expired

– September 30, 2009. They had always planned to repeal that rescission before it occurred, but failed to do so. They are so irritated by the failure to avert the rescission that they propose to re-enact the funds – twice!

A table showing the components of the $20.8 billion above the CBO baseline will be included in the Record at the end of my statement.

CBO projects that limiting highway spending to the FY09 program level, as the CR does, will exceed the gas tax revenue to the Highway Trust Fund by $87 billion over the next 10 years. If Congress continues to cover trust fund shortfalls as it has been – by transferring money from the Treasury's General Fund – then $87 billion of transfers and debt would be required to continue just this FY09 level of spending. The General Fund, however, is also broke – incurring a $1.4 trillion deficit in FY09, and the FY10 deficit is likely to be about the same. Consequently, when Congress transfers money from the broke General Fund to the broke Highway Trust Fund, the debt of the U.S. government goes up by exactly that amount and immediately counts against the debt limit.

Despite the unaffordability of the baseline, Congress adopted a 2010 budget resolution in May 2009 that allocated amounts to authorizing committees to write a highway bill that would spend more than current law revenues collected by the trust fund. The Senate highway expansion bill, which would restore the $8.7 billion rescission twice, would not only enact the levels magically assumed by the 2010 budget resolution but would also increase outlays by another $62 billion over 10 years, bringing the total draw on the General Fund, the debt, and future generations to nearly $150 billion, just from a so-called "6-month extension bill."

The authorizers brush off any deficit concerns by saying that, under the Byzantine system of split jurisdiction with the appropriators, they don't control outlays and so there is no "pay-go" problem with their expansion bill. But it's too late to raise any objection if you wait to measure highway program outlays for budget enforcement until they are triggered by an appropriations bill, since the outlays are already baked into the baseline and into the allocations of the appropriators. The only point where taxpayers or their watchdogs can measure whether proposed future spending is higher than current law is at the authorization stage. Extra special vigilance is required whenever authorizers claim they just want to enact a "simple clean extension."

When Republicans controlled Congress in 1998, they enacted a bipartisan highway bill dedicated to spending all gas tax revenues only on highways. When they enacted the next highway bill in 2005, it was also a bipartisan goal to spend every penny of gas tax revenue. They succeeded beyond their imaginations. And now that Democrats are responsible for writing the next highway bill, their proposal is to spend all the gas taxes plus an additional $150 billion. This can only be done by increasing the nation's debt, in other words - handing the bill to our children so today's politicians can take credit for highway projects.

Components of the $20.8 billion in Highway Spending Above the CBO Baseline

The $20.8 billion consists of 4 pieces:

- $11.9 billion from the highway title of the bill, made up of $8.7 billion from restoring the funds lost due to the rescission enacted in SAFETEA-LU and $3.2 billion from restoring the funds lost due to the rescission enacted in the FY09 Transportation/HUD appropriation bill;
- Another $8.7 billion in additional appropriations to again restore the amount that was rescinded on September 30, 2009, just to make sure;
- $0.1 billion for the safety title of the bill; and
- $0.1 billion for the transit title of the bill.

The $8.7 billion appears twice in the bill:

- In Section 101, which provides highway funding for FY10 and beyond at the FY09 level but defines the FY09 level <u>as if no rescissions occurred in FY09</u>, and
- In Section 103, which adds another $8.7 billion.